

AMENDMENTS TO LB 47

Introduced by Judiciary.

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 30-2302, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 30-2302 The intestate share of the surviving spouse is:

6 (1) if there is no surviving issue or parent of the
7 decedent, the entire intestate estate;

8 (2) if there is no surviving issue but the decedent
9 is survived by a parent or parents, the first ~~fifty~~ one hundred
10 thousand dollars, plus one-half of the balance of the intestate
11 estate;

12 (3) if there are surviving issue all of whom are issue
13 of the surviving spouse also, the first ~~fifty~~ one hundred thousand
14 dollars, plus one-half of the balance of the intestate estate;

15 (4) if there are surviving issue one or more of whom
16 are not issue of the surviving spouse, one-half of the intestate
17 estate.

18 Sec. 2. Section 30-2485, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 30-2485 (a) All claims against a decedent's estate which
21 arose before the death of the decedent, including claims of
22 the state and any subdivision thereof, whether due or to become
23 due, absolute or contingent, liquidated or unliquidated, founded

1 on contract, tort, or other legal basis, if not barred earlier
2 by other statute of limitations, are barred against the estate,
3 the personal representative, and the heirs and devisees of the
4 decedent, unless presented as follows:

5 (1) Within two months after the date of the first
6 publication of notice to creditors if notice is given in compliance
7 with sections 25-520.01 and 30-2483, except that claims barred by
8 the nonclaim statute at the decedent's domicile before the first
9 publication for claims in this state are also barred in this state.
10 If any creditor has a claim against a decedent's estate which arose
11 before the death of the decedent and which was not presented within
12 the time allowed by this subdivision, including any creditor who
13 did not receive notice, such creditor may apply to the court within
14 sixty days after the expiration date provided in this subdivision
15 for additional time and the court, upon good cause shown, may allow
16 further time not to exceed thirty days;

17 (2) Within three years after the decedent's death if
18 notice to creditors has not been given in compliance with sections
19 25-520.01 and 30-2483.

20 (b) All claims, other than for ~~administration expenses,~~
21 costs and expenses of administration as defined in section
22 30-2487, against a decedent's estate which arise at or after
23 the death of the decedent, including claims of the state and any
24 subdivision thereof, whether due or to become due, absolute or
25 contingent, liquidated or unliquidated, founded on contract, tort,
26 or other legal basis, are barred against the estate, the personal
27 representative, and the heirs and devisees of the decedent, unless

1 presented as follows:

2 (1) A claim based on a contract with the personal
3 representative, within four months after performance by the
4 personal representative is due;

5 (2) Any other claim, within four months after it arises.

6 (c) Nothing in this section affects or prevents:

7 (1) Any proceeding to enforce any mortgage, pledge, or
8 other lien upon property of the estate; or

9 (2) To the limits of the insurance protection only, any
10 proceeding to establish liability of the decedent or the personal
11 representative for which he or she is protected by liability
12 insurance.

13 Sec. 3. Section 30-2487, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 30-2487 (a) If the applicable assets of the estate are
16 insufficient to pay all claims in full, the personal representative
17 shall make payment in the following order:

18 (1) Costs and expenses of administration;

19 (2) Reasonable funeral expenses;

20 (3) Debts and taxes with preference under federal law;

21 (4) Reasonable and necessary medical and hospital
22 expenses of the last illness of the decedent, including
23 compensation of persons attending the decedent and claims filed by
24 the Department of Health and Human Services pursuant to section
25 68-919;

26 (5) Debts and taxes with preference under other laws of
27 this state;

1 (6) All other claims.

2 (b) No preference shall be given in the payment of any
3 claim over any other claim of the same class, and a claim due and
4 payable shall not be entitled to a preference over claims not due.

5 (c) For purposes of this section and section 30-2485,
6 costs and expenses of administration includes expenses incurred in
7 taking possession or control of estate assets and the management,
8 protection, and preservation of the estate assets, expenses related
9 to the sale of estate assets, and expenses in the day-to-day
10 operation and continuation of business interests for the benefit of
11 the estate.

12 Sec. 4. Section 30-24,125, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 30-24,125 (a) Thirty days after the death of a decedent,
15 any person indebted to the decedent or having possession of
16 tangible personal property or an instrument evidencing a debt,
17 obligation, stock, or chose in action belonging to the decedent
18 shall make payment of the indebtedness or deliver the tangible
19 personal property or an instrument evidencing a debt, obligation,
20 stock, or chose in action to a person claiming to be the successor
21 of the decedent upon being presented an affidavit made by or on
22 behalf of the successor stating:

23 (1) the value of all of the personal property in the
24 decedent's estate, wherever located, less liens and encumbrances,
25 does not exceed ~~twenty-five~~ fifty thousand dollars;

26 (2) thirty days have elapsed since the death of the
27 decedent as shown in a certified or authenticated copy of the

1 decedent's death certificate attached to the affidavit;

2 (3) the claiming successor's relationship to the decedent
3 or, if there is no relationship, the basis of the successor's claim
4 to the personal property;

5 (4) the person or persons claiming as successors under
6 the affidavit swear or affirm that all statements in the affidavit
7 are true and material and further acknowledge that any false
8 statement may subject the person or persons to penalties relating
9 to perjury under section 28-915;

10 (5) no application or petition for the appointment of
11 a personal representative is pending or has been granted in any
12 jurisdiction; and

13 (6) the claiming successor is entitled to payment or
14 delivery of the property.

15 (b) A transfer agent of any security shall change the
16 registered ownership on the books of a corporation from the
17 decedent to the successor or successors upon the presentation of an
18 affidavit as provided in subsection (a).

19 (c) In addition to compliance with the requirements of
20 subsection (a), a person seeking a transfer of a certificate
21 of title to a motor vehicle, motorboat, all-terrain vehicle, or
22 minibike shall be required to furnish to the Department of Motor
23 Vehicles an affidavit showing applicability of this section and
24 compliance with the requirements of this section to authorize the
25 department to issue a new certificate of title.

26 Sec. 5. Section 30-24,129, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 30-24,129 (a) Thirty days after the death of a decedent,
2 any person claiming as successor to the decedent's interest in real
3 property in this state may file or cause to be filed on his or her
4 behalf, with the register of deeds office of a county in which the
5 real property of the decedent that is the subject of the affidavit
6 is located, an affidavit describing the real property owned by the
7 decedent and the interest of the decedent in the property. The
8 affidavit shall be signed by all persons claiming as successors or
9 by parties legally acting on their behalf and shall be prima facie
10 evidence of the facts stated in the affidavit. The affidavit shall
11 state:

12 (1) the value of the decedent's interest in all real
13 property in the decedent's estate located in this state does
14 not exceed ~~twenty-five~~ thirty thousand dollars. The value of the
15 decedent's interest shall be determined from the value of the
16 property as shown on the assessment rolls for the year in which the
17 decedent died;

18 (2) thirty days have elapsed since the death of the
19 decedent as shown in a certified or authenticated copy of the
20 decedent's death certificate attached to the affidavit;

21 (3) no application or petition for the appointment of
22 a personal representative is pending or has been granted in any
23 jurisdiction;

24 (4) the claiming successor is entitled to the real
25 property by reason of the homestead allowance, exempt property
26 allowance, or family allowance, by intestate succession, or by
27 devise under the will of the decedent;

1 (5) the claiming successor has made an investigation and
2 has been unable to determine any subsequent will;

3 (6) no other person has a right to the interest of the
4 decedent in the described property;

5 (7) the claiming successor's relationship to the decedent
6 and the value of the entire estate of the decedent; and

7 (8) the person or persons claiming as successors under
8 the affidavit swear or affirm that all statements in the affidavit
9 are true and material and further acknowledge that any false
10 statement may subject the person or persons to penalties relating
11 to perjury under section 28-915.

12 (b) The recorded affidavit and certified or authenticated
13 copy of the decedent's death certificate shall also be recorded
14 by the claiming successor in any other county in this state in
15 which the real property of the decedent that is the subject of the
16 affidavit is located.

17 Sec. 6. Original sections 30-2302, 30-2485, 30-2487,
18 30-24,125, and 30-24,129, Reissue Revised Statutes of Nebraska, are
19 repealed.